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10/038,142

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EXAMINER

BENGZON, GREG C

ART UNIT

PAPER NUMBER

2144

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/038,142

Applicant(s)

TABATABAI ET AL.

Examiner

Greg Bengzon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____;
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This application has been examined. Claims 1-90 are pending.

Making Final

Applicant's arguments filed 07/12/2006 have been fully considered but they are not persuasive.

The claim amendments regarding -- *'fragment update command specifies a type of command for execution by a decoder to update a multimedia description'*-- substantially alter the scope of the invention and necessitate further search.

Furthermore the amendments do not overcome the disclosure by the prior art as applied in the Office Action, as shown below.

The Examiner is making this action FINAL as necessitated by the a1 amendments.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-90 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 1 recites 'access unit' and 'fragment update command', said terms being undefined with no particular context given and no utility/application indicated. The claim(s) is considered broad and indefinite, as one of ordinary skill in the art would not be able to ascertain the scope and application of said 'access unit' and 'fragment update command'.

While the inventor may define specific terms used to describe invention, the inventor must do so "with reasonable clarity, deliberateness, and precision" and, if done, must "set out the inventor's uncommon definition in some manner within the patent disclosure" so as to give one of ordinary skill in the art notice of the change" in meaning. Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention.

For the purpose of examination the term '*access unit*' is interpreted to be a data portion in a hierarchical data tree, said data containing multimedia description information in a markup language format.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-35, 37-65, 67-90 rejected under 35 U.S.C. 103(a) as being unpatentable over Paek (US Patent 7143434) in view of Vandersluis (US Patent 7165073).

With respect to Claim 1, Paek discloses a method comprising: forming an access unit corresponding to a fragment of a multimedia description, comprising a fragment update, (Paek-Column 3 Lines 50-55, Column 23 Lines 40-45) the fragment update forming an encoded data stream from the access unit. (Paek-Column 26 Lines 15-35)

However while Paek disclosed updating fragments [segments], Paek did not disclose (re. Claims 1,2,22) the fragment update comprising a fragment update command. Paek did not disclose (re. Claims 1,2,22) the fragment update comprising a fragment update command wherein the fragment update command specifies a type of command for execution by a decoder to update a multimedia description.

Vandersluis disclosed (re. Claim 1) an update command for manipulating hierarchical data, as applied to XML data streams. (Vandersluis-Column 7 Lines 30-35, Column 10 Lines 60-65, Column 11 Lines 55-65) Furthermore, Vandersluis disclosed (re. Claims 1) the fragment update comprising a fragment update command (Column 10 Lines 30-40, 'replacement operation') wherein the fragment update command specifies a type of command for execution by a decoder to update a multimedia description. (Vandersluis- Column 11 Lines 1-5, Column 11 Lines 30-55)

Paek and Vandersluis are analogous art because they present concepts and practices regarding the encoding and decoding of XML data elements. At the time of the invention it would have been obvious to combine the teachings of Vandersluis regarding including update commands into the method and system of Paek. The motivation for doing so would have been to allow for content-exchange for MPEG-7 video editing as desired by Paek (Paek-Column 2 Lines 35-40), such the processing application is able to flexibly select only those portions of the data file that suits the particular purpose at the time (Vandersluis-Column 4 Lines 25-30)

Claims 2 and 22 are rejected on the same basis as Claim 1.

With respect to Claim 2, Paek-Vandersluis disclosed wherein the fragment update command is selected from a group consisting of add, delete, change, and reset commands. (Vandersluis-Column 11 Lines 1-5)

With respect to Claim 3, Paek-Vandersluis disclosed wherein the fragment update further comprises a value. (Paek-Column 26 Lines 15-35)

)

With respect to Claim 4, Paek-Vandersluis disclosed wherein the fragment update further comprises a fragment reference wherein the fragment reference is a pointer to a fragment to be used by the fragment update command. (Paek-Column 28 Lines 20-25, Column 19 Lines 35-40)

With respect to Claim 5, Paek-Vandersluis disclosed wherein the fragment reference is a uniform resource identifier (URI). (Paek-Column 25 Lines 10-15)

With respect to Claim 7, Paek-Vandersluis disclosed wherein the fragment update further comprises a payload. (Paek-Column 26 Lines 15-35)

With respect to Claim 8, Paek-Vandersluis disclosed wherein the fragment is in a first node. (Paek-Column 27 Lines 20-25)

With respect to Claim 9, Paek-Vandersluis disclosed wherein the fragment reference is in a second node and the first node and the second node are the same node. (Paek-Column 9 Lines 60-65)

With respect to Claim 10, Paek-Vandersluis disclosed wherein the first node and the second node are in a Moving Picture Experts Group (MPEG) description. (Paek-Column 9 Lines 1-5)

With respect to Claim 11, Paek-Vandersluis disclosed wherein the fragment reference is in a second node and the first node and the second node are different nodes. (Paek-Column 10 Lines 20-25)

With respect to Claim 12, Paek-Vandersluis disclosed wherein the first node and the second node are in a Moving Picture Experts Group (MPEG) description. (Paek-Column 9 Lines 1-5)

With respect to Claim 13, Paek-Vandersluis disclosed determining if a multimedia description corresponding to the access unit has changed; identifying a changed portion of the multimedia description and a corresponding access unit; and forming the fragment update to correspond to the changed portion of the multimedia description. (Vandersluis-Column 11 Lines 1-5)

With respect to Claim 14, Paek-Vandersluis disclosed associating the access unit with a partial description. (Paek-Column 20 Lines 10-15)

With respect to Claim 15, Paek-Vandersluis disclosed wherein the partial description comprises an instance of a descriptor. (Paek-Column 26 Lines 45-50)

With respect to Claim 16, Paek-Vandersluis disclosed associating the access unit with a reset point that contains a fragment that forms a complete description. (Paek-Column 27 Lines 20-25)

With respect to Claim 17, Paek-Vandersluis disclosed the method of claim 4 wherein the, fragment is stored on a different system than a system performing the method of claim 1. (Vandersluis-Column 5 Lines 50-60)

With respect to Claim 18, Paek-Vandersluis disclosed the method of claim 1 wherein the access unit corresponds to a description, and further comprising: transmitting the encoded data stream while the description is static. (Vandersluis-Column 7 Lines 30-35)

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With respect to Claim 19, Paek-Vandersluis disclosed wherein the access unit corresponds to a description, and further comprising: transmitting the encoded data stream while the description is dynamic. (Vandersluis-Column 7 Lines 30-35)

With respect to Claim 20, Paek-Vandersluis disclosed transmitting a data for decoding to a decoder. (Vandersluis-Column 5 Lines 50-60)

With respect to Claim 21, Paek-Vandersluis disclosed wherein the data include schemas defining a description data to be transmitted. (Vandersluis-Column 5 Lines 50-60)

Claims 22-30 are rejected on the same basis as Claims 1-21.

With respect to Claim 25, Paek-Vandersluis disclosed wherein the first fragment reference is in hyper-text transfer protocol (HTTP). (Paek-Column 26 Lines 60-65)

With respect to Claim 27, Paek-Vandersluis disclosed further comprising: identifying a second node which the command affects; and identifying a second fragment reference which the first fragment reference points to, wherein the second fragment reference points to the first referenced fragment. (Vandersluis-Column 11 Lines 30-55)

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With respect to Claim 29, Paek-Vandersluis disclosed wherein the second fragment reference points to a second referenced fragment within the first node, (Vandersluis-Column 11 Lines 30-55) further comprising: replacing the first fragment reference with a third fragment reference pointing to the second referenced fragment. (Vandersluis-Column 11 Lines 30-55)

With respect to Claim 30, Paek-Vandersluis disclosed wherein the second fragment reference points to a second referenced fragment within the first node, (Vandersluis-Column 11 Lines 30-55) further comprising: replacing the first fragment reference with a third fragment reference pointing to a third referenced fragment within the second node. (Vandersluis-Column 11 Lines 30-55)

With respect to Claims 31-35, 37-51, the Applicant describes a computer readable medium containing computer executable instructions to perform the method described in Claims 1-21, said instructions having the same limitations as described in Claims 1-21. Claims 31-35, 37-51 are rejected on the same basis as Claims 1-21, as applied above.

With respect to Claims 61-65, 67-81, the Applicant describes a system having the same limitations as described in Claims 1-21. Claims 61-65, 67-81 are rejected on the same basis as Claims 1-21, as applied above.

With respect to Claims 52-60, the Applicant describes a computer readable medium containing computer executable instructions to perform the method described

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in Claims 22-30, said instructions having the same limitations as described in Claims 22-30. Claims 52-60 are rejected on the same basis as Claims 22-30, as applied above.

With respect to Claims 82-90, the Applicant describes a computer readable medium containing computer executable instructions to perform the method described in Claims 22-30, said instructions having the same limitations as described in Claims 22-30. Claims 82-90 are rejected on the same basis as Claims 22-30, as applied above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 36, and 66 rejected under 35 U.S.C. 103(a) as being unpatentable over Paek (US Patent 7143434) in view of Vandersluis (US Patent 7165073) as applied to Claims 1-5, 7-35, 37-65, 67-90 above, and further in view of Srivastava et al. (US Patent

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6549922), hereinafter referred to as Srivastava , further in view of the W3C Organization Press Release titled 'W3C Issues XSL Transformations (XSLT) and XML Path Language (XPath) as Recommendations', and the XPath Specifications document referenced therein, dated November 16 1999.

With respect to Claims 6, 36, and 66, the combination of Paek-Vandersluis substantially discloses the limitations as described in the said claims.

However Paek-Vandersluis does not disclose a fragment reference that is in Xpath (extensible markup language path language).

XPath is a language for addressing parts of an XML document, designed to be used by both XSLT and Xpointer. XPath gets its name from its use of a path notation as in URLs for navigating through the hierarchical structure of an XML document. In addition to its use for addressing, XPath is also designed so that it has a natural subset that can be used for matching (testing whether or not a node matches a pattern). Using XPath functions can reduce the amount of programming required when a system receives the XML data.

Srivastava discloses of a method for representing multimedia content using a standard data representation format using XML. Srivastava extracts data from the multimedia content and forms metadata for said content. The said metadata may

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reference URL of Internet data which contains externally located metadata which describes the media file. Srivastava also provides a graphical user interface for editing the media file and the metadata. (Column 3 Lines 1-60)

Paek-Vandersluis and Srivastava are analogous art because they present concepts and practices regarding data representation for multimedia content. At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine the teachings of Srivastava into the combination of Paek-Vandersluis, such that the metadata for the media content in the fragment references of Paek-Vandersluis are represented using the XML format. The motivation for said combination would have been, as Srivastava suggests, in order to take advantage of the XML standard for facilitating automated media management solutions. Currently, Srivastava writes, there is no unified way of capturing and using MPEG-7 metadata in application programs. Instead, special-purpose routines must be written by the application programmer to handle each of the wide variety of metadata storage techniques used by different proprietary media formats. (Column 1 Lines 30-35) By using a well-defined XML structure, a unified representation for the metadata is achieved. (Column 7 Lines 60)

However Srivastava does not disclose using XPath with XML documents, such that the references contained in the XML document can be located, filtered, matched, or transformed using XPath functions.

The W3C Press Release announces the creation and availability of the XPath language specifications. Together with XSLT, XPath makes it possible for XML documents to be reformatted according to the parameters of the XSL style sheets, and build presentation flexibility into the XML architecture.

At the time of the invention it would have been obvious to use XPath in the XML documents as taught by the combination of Paek-Vandersluis-Srivastava , such that the parts of the XML documents are easily matched, filtered, or transformed according to a specified rule or condition. The motivation for combining XPath into the combined teachings of Paek-Vandersluis-Srivastava would have been, as the W3C press release suggests, to facilitate delivery of rich, structured data content to a wider range of devices.

Response to Arguments

Applicant's arguments filed 12/20/2006 have been fully considered but are moot in view of the new ground(s) of rejection.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to continue to claim as broadly as possible their invention, it is also the Examiner's right to continue to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art

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used in the rejection, fails to differentiate in detail how these features are unique (see Applicant's enabling portions of the specification, Paragraph 28), as it is well known in the networking art as already shown by Paek-Vandersluis and other prior arts of records disclosed, for a streaming media application to replace and regenerate parts of a hierarchical data structure using update commands such add, insert, and delete, as well as other claimed features of Applicant's invention. Thus, it is clear that Applicant must submit amendments to the claims in order to distinguish over the prior art use in the rejection that discloses different features of Applicant's claim invention.

Applicant has had numerous opportunities to amend the claimed subject matter, and has failed to modify the claim language to distinguish over the prior art of record by clarifying or substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP 2111.

Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read

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into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly and distinctly, define the claimed invention.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

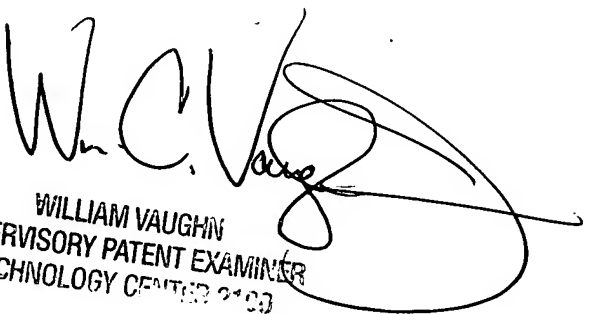
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcb


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